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DEC 15 2005

OFFICE OF PETITIONS

In re Application of

Chen, et al.

Application No. 09/725,009

Filed: November 28, 2000

Attorney Docket No. SOM9-2000-0008/1963 7390

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DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), December 2, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed April 19, 2005. The notice set a statutory period for reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on July 20, 2005. A Notice of Abandonment was mailed on November 21, 2005.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy the requirements of item (1) above.

The proper reply to the Notice of Allowance and Issue Fee Due must include the issue fee payment of \$1,400.00. Petitioner authorized the amount of \$1045.00 to be charged to deposit account 09-0459 for payment of the issue; it appears that petitioner believed that the amount of \$355.00 toward the issue fee was previously charged. The record reflects that the amount of \$355.00 was charged previously, but was refunded. At the time this decision was authored, deposit account 09-0459 did not sufficient funds to charge the issue fee of \$1,400.00. The petition is dismissed, accordingly.

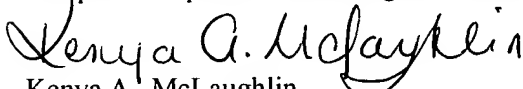
Any renewed petition filed must be accompanied by the issue fee payment.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 United States Patent and Trademark Office
 Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.


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Office of Petitions